



FEDERAL ELECTION COMMISSION
WASHINGTON, D.C. 20463

VIA CERTIFIED MAIL
RETURN RECEIPT REQUESTED

NOV 15 2017

Congressman Ryan A. Costello
P. O. Box 3154
West Chester, PA 19381

RE: MUR 7184

Dear Representative Costello:

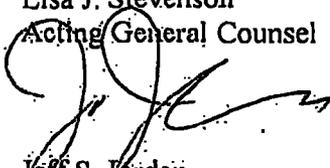
The Federal Election Commission reviewed the allegations in your complaint received on November 3, 2016. On November 8, 2017, based upon the information provided in the complaint, decided to exercise its prosecutorial discretion to dismiss the allegations as to the unknown respondent, and close its file in this matter. Accordingly, the Commission closed its file in this matter on November 8, 2017. A copy of the General Counsel's Report, which more fully explain the basis for the Commission's decision, is enclosed.

Documents related to the case will be placed on the public record within 30 days. See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record, 74 Fed. Reg. 66132 (Dec. 14, 2009).

The Federal Election Campaign Act of 1971, as amended, allows a complainant to seek judicial review of the Commission's dismissal of this action. See 52 U.S.C. § 30109(a)(8).

Sincerely,

Lisa J. Stevenson
Acting General Counsel

BY: 
Jeff S. Jordan
Assistant General Counsel

Enclosure
General Counsel's Report

BEFORE THE FEDERAL ELECTION COMMISSION
ENFORCEMENT PRIORITY SYSTEM
DISMISSAL REPORT

MUR: 7184

Respondents: Unknown

Complaint Receipt Date: November 3, 2016

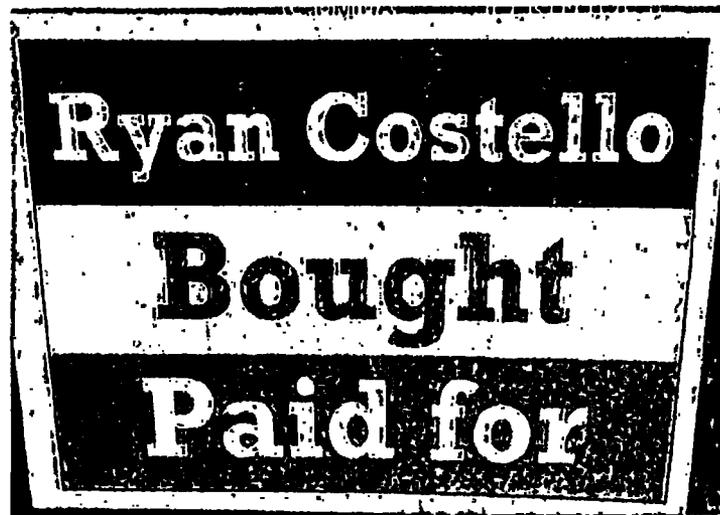
Response Dates: N/A

EPS Rating:

**Alleged Statutory
Regulatory Violations:**

**52 U.S.C. § 30120(a);
11 C.F.R. §§ 100.22(b); 110.11(a), (b)**

Complainant and House candidate Ryan A. Costello alleges that an unidentified party placed over 24 yard signs throughout Costello's district that criticized him and did not include a disclaimer.¹ The Complaint included a photograph of one of the yard signs, which appears below, and a list of locations where 24 of the signs were placed:²



¹ Compl. at 1, Ex. A at 1,2. Costello was re-elected to represent Pennsylvania's Sixth district in the U. S. House of Representatives in 2016.

² Public communications that contain express advocacy require disclaimers. 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(2). Also, public communications paid for by a political committee require disclaimers. 52 U.S.C. § 30120(a); 11 C.F.R. § 110.11(a)(1). The content requirements and specifications for disclaimers are set forth at 11 C.F.R. § 110.11(b),(c).

The Complaint does not contain information as to the cost or the source of the signs, and we do not have any such information. The Commission has dismissed similar cases in which it appeared unlikely that an investigation would identify the responsible party.³

Based on its experience and expertise, the Commission has established an Enforcement Priority System using formal, pre-determined scoring criteria to allocate agency resources and assess whether particular matters warrant further administrative enforcement proceedings. These criteria include (1) the gravity of the alleged violation, taking into account both the type of activity and the amount in violation; (2) the apparent impact the alleged violation may have had on the electoral process; (3) the complexity of the legal issues raised in the matter; and (4) recent trends in potential violations and other developments in the law. This matter is rated as low priority for Commission action after application of these pre-established criteria. Given that low rating and the unlikelihood that an investigation would identify the responsible party, we recommend that the Commission dismiss the Complaint consistent with the Commission's prosecutorial discretion to determine the proper ordering of its priorities and use of agency resources.⁴ We also recommend that the Commission close the file as to the unknown respondent and send the appropriate letter to the Complainant.

Lisa J. Stevenson
Acting General Counsel

Kathleen M. Guith
Associate General Counsel

³ See, e.g., MUR 6135 (Unknown Respondents), MUR 5455 (Unknown in South Dakota) (Dismissing complaints regarding "robocalls" in which there was little likelihood that an investigation would identify the responsible party).

⁴ *Heckler v. Chaney*, 470 U.S. 821, 831-32 (1985).

